

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOHN DOE J.P.,)	
)	
Plaintiff,)	
)	No. 4:20-CV-331-PLC
v.)	
)	
)	
ROMAN CATHOLIC ARCHDIOCESE)	
OF ST. LOUIS, et al.,)	
)	
Defendants.)	

**DEFENDANT RAYMOND BURKE’S MOTION TO QUASH JULY 24, 2020 SERVICE
OF PROCESS AND TO DISMISS PLAINTIFF’S COMPLAINT**

COMES NOW Defendant Raymond Burke (hereinafter, “Cardinal Burke”), and in accordance with Rule 12(b)(5) of the Federal Rules of Civil Procedure, for his Motion to Quash July 24, 2020 Service of Process and to Dismiss Plaintiff’s Complaint, states as follows:

1. Plaintiff filed his complaint in this case on February 28, 2020. (Doc. 1.) On July 24, 2020, a complaint and summons were received via First Class Mail at 20 Archbishop May Drive. (*See* Aff. of Most Rev. Mark S. Rivituso, attached hereto as Ex. A, ¶ 11.)

2. Cardinal Burke did not reside or work at 20 Archbishop May Drive at that time, nor does he now. (Ex. A, ¶ 4.) No one at 20 Archbishop May Drive had authority to accept service for Cardinal Burke. (Ex. A, ¶ 12.)

3. Nonetheless, on July 29, 2020, Plaintiff filed a document with the Court reflecting that service on Cardinal Burke was achieved on July 24 2020. (Doc. 20.)

4. Because the July 24, 2020 service on Cardinal Burke was defective, this Defendant now respectfully requests that this Court quash the notice of service of process filed against him. *See* Fed. R. Civ. P. 4(e); Mo. Sup. Ct. R. 54.13(b)(1).

5. Fed. R. Civ. P. 4(m) states that unless there exists good cause, a defendant must be served within 90 days after the complaint is filed. In the absence of proper service or any indication that Plaintiff has acted with due diligence that may support an extension of this deadline, this Court must dismiss Plaintiff's claims. *See Adams v. AlliedSignal Gen. Aviation Avionics*, 74 F.3d 882, 887 (8th Cir. 1996).

6. Cardinal Burke incorporates fully by reference the arguments in his contemporaneously filed Memorandum in Support of this Motion.

WHEREFORE, Defendant Raymond Burke respectfully requests that this Court grant his Motion to Quash July 24, 2020 Service of Process and to Dismiss Plaintiff's Complaint, quash the notice of service filed on July 29, 2020, dismiss Plaintiff's claims against him, and for such other relief as this Court deems just and proper under the circumstances.

Respectfully Submitted,

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Attorneys for Defendant Cardinal Raymond Burke
for the Limited Purpose of Filing Motion to Quash
Service and to Dismiss

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 14, 2020, the foregoing was filed electronically with the Clerk of Court, to be served electronically by operation of the Court's electronic filing system upon all counsel of record, and was mailed to Plaintiff's last known address under Fed. R. Civ. P. 5(b)(2)(C) via First Class Mail.

/s/ Alexandra S. Haar